Supreme Court, U. S.
FILED
JAN 10 1977
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1976

No. 76-953

EDWARD RONWIN, Petitioner,

v.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

EDWARD RONWIN
Box 2527
Scottsdale, Arizona 85252
(602) 994-5698
Petitioner pro se

IN THE

Supreme Court of the United States

October Term, 1976

No.

EDWARD RONWIN, Petitioner,

v.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

TABLE OF CONTENTS

	Page
Table of Cases and Authorities	ii
Opinion Below	1
Jurisdiction	1
Questions Presented	2
Question Reserved	2
Statutes Involved	3
Statement of the Case	3
Argument	5
Consideration of Question No. 1	6
Consideration of Question No. 2	10
Consideration of Question No. 3	11
Appendix:	
A - Opinion and Judgment, July 6, 1976	A-1
B - Order Denying Petition for Rehearing	A-9
C - Statutes Involved	A-10
D - Exhibit 19-D	A-11
E - Furnish's Affidavit and Rough Draft	A-12
F - Findings of Special Committee	A-15
G - Dean's Comments on Schwada	A-18

TABLE OF CASES AND AUTHORITIES

Cases:	*Page*
Baird v. State Bar of Arizona, 401 U.S. 1, 91 S. Ct. 702 (1971)	7
New York Times Company v. Sullivan, 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964)	7
Pickering v. Board of Education, 391 U.S. 563, 88 S. Ct. 1731, 20 L. Ed. 2d 811 (1968)	7
Constitutions, Statutes and Rules	
U.S. Constitution,	
1st.	2,5,10
5th	2,5,10
14th	2,5,10
Vol. 17A, A.R.S.,	
Rule 28(c)III.7	3
Rule 28(c)IV.3	3
Rule 28(c)IV.4	3
28 U.S.C. § 1257(3)	2

IN THE

Supreme Court of the United States

October Term, 1976

No.

EDWARD RONWIN, Petitioner,

v.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

The Petitioner, Edward Ronwin, respectfully prays that a Writ of Certiorari issue to review the Judgment of the Supreme Court of the State of Arizona entered in this matter on July 6, 1976.

OPINION BELOW

An opinion accompanies the judgment of the Supreme Court of Arizona and is reproduced in the Appendix (A -1).

JURISDICTION

The judgment of the Supreme Court of Arizona was entered on July 6, 1976. Subsequently, Petitioner's Petition for Rehearing was denied by Order of October 26, 1976

(A-9).

This Court's jurisdiction is invoked under Title 28, U.S.C. § 1257(3).

QUESTIONS PRESENTED

1. Does the "Doctrine of Personality Deficiencies" (or, "Personality Disorders") promulgated by the Supreme Court of Arizona chill Petitioner's rights under the First, Fifth and Fourteenth Amendments, U. S. Constitution, and is said doctrine so vague, ambiguous, indeterminate and afflicted with overbreath as to be unconstitutional? Further, can said Doctrine be constitutionally applied prospectively to bar Petitioner from admission to the Arizona Bar at any future time in his life as the Arizona Supreme Court has done?
2. Is the standard set for Bar admission by the Arizona Supreme Court which restricts opposition to anti-semitism by Petitioner to "normal repugnance" an unconstitutional standard?
3. Was Petitioner's First Amendment rights violated when his refusal to answer the questions on the Minnesota Multiphasic Profile Index which directly inquire into Petitioner's religious beliefs, was used as a basis for alleging that Petitioner was "mentally unable" to practice law?

QUESTION RESERVED

4. Using the "clear and convincing" evidence criterion of the Arizona Supreme Court, does the record evidence support the opinion and judgment of July 6, 1976 of the Arizona Supreme Court?

STATUTES INVOLVED

Vol. 17A, Ariz. Rev. Stat., Rules 28(c)III.7, (A-10); and Rule 28(c)IV.4 (in 1974; now Rule 28(c)IV.3), (A-10).

STATEMENT OF THE CASE

While studying at Arizona State University College of Law, Petitioner was subjected to a vicious campaign of harrassment with *anti-semitic* content (A-11, and Exh. 19 to Reporter's Transcript of record before Special Committee, *infra*; hereinafter, RT). Although the law Dean labelled the harrassment, ". . . the most outrageous conduct he had ever seen in 31 years of teaching . . ." (RT, p. 100, lines 18-25 and Exh. 15 to RT, p. 40, lines 14-16), he followed an admitted course of ignoring the problem (Exh. 15 to RT, p. 40, lines 5-10). That admitted non-feasance, and, in view of the nature of the outrage, misfeasance, encouraged the perpetrators and forced Petitioner to sue seven (7) fellow students who were among those involved. The suit brought overt harrassment to an effective conclusion, (RT, p. 120, lines 22-24), but covert tactics continued including a break-in and riffling of Petitioner's school locker.

Some two weeks prior to the Bar examination of Feb., 1974, Respondent requested Petitioner's law school record. At that point, the Dean informed Petitioner that the Associate Dean had solicited two (2) essentially derogatory memoranda on Petitioner from two temporary faculty members who had left the law school. It subsequently transpired that at least one other faculty member had aided said solicitation and he has since admitted that said solicitation was for the purpose of obtaining material to counter Petitioner's complaints on the manner by which law school

handled said *anti-semitic* harrassment and further that the truth or falsity of said memoranda was not known either at the time of solicitation or as late as September, 1976 (A-12,14) and Exhs. B and C to Petition for Rehearing filed by Petitioner Sept. 3, 1976). The Dean insisted that the memoranda were not part of Petitioner's school record and were supposed to be destroyed earlier but were not destroyed due to an oversight (RT, p. 94, lines 9-22).

Respondent allowed Petitioner to take the Feb., 1974, examination "conditionally"; but, two of the seven defendants in Petitioner's aforesaid suit also taking said examination were not so restricted nor were their school records requested by Respondent.

Petitioner failed the Feb., 1974 examination; however, Petitioner's record was cleared by Respondent at least to April 18, 1974 which encompassed, or should have, a review of Petitioner's entire school record including said derogatory memoranda and said law suit.

On June 1, 1974, Petitioner applied to take the July 31, 1974 Bar examination. Eight (8) days prior to the start of said examination and *without notice or opportunity given Petitioner to be heard,* Respondent declared Petitioner "mentally and physically unable" to practice law. The basis, according to the affidavit of Respondent's then Chairman, was that Petitioner was "irrational" because Petitioner's Petition (to the Arizona Supreme Court) challenging the results of the Feb., 1974 examination suggested that (1) Respondent violated federal anti-trust law by Respondent's grading process; and, that (2) Respondent's "conditional" restraint upon Petitioner while not so restricting the two anti-semitic defendants in Petitioner's law suit also taking said examination, was discriminatory.

Petitioner filed a Petition for a Writ of Special Action from the Arizona Supreme Court to obtain admission to the July, 1974, examination. Said Court denied said Petition on July 30, 1974.

Subsequently, Respondent offered a hearing to Petitioner and Petitioner accepted the offer subject to reservation. A hearing was held before a Special Committee acting for Respondent on January 6 and 7, 1975. Prior to said hearing, Special Committee conceded that Petitioner was "physically able" to practice law. Special Committee made Findings dated January 21, 1975 (A-15).

Pursuant to Petitioner's Petition for Review of said Findings, the Arizona Supreme Court heard the matter on October 2, 1975 and rendered its judgment, accompanied by an opinion on July 6, 1976 (A-1). Petitioner's subsequent Petition for Rehearing was denied on October 26, 1976 (A-9).

On August 30, 1976, Petitioner reapplied for admission to the Bar. The application was denied without opportunity to be heard; and, as justification, the new Committee on Character and Fitness merely pointed to the Arizona Supreme Court's Opinion.

ARGUMENT

The constitutional importance of the Questions presented is the threat to Petitioner's First, Fifth and Fourteenth Amendment rights posed by the Arizona Supreme Court's "Doctrine of Personality Deficiencies" as exemplified by said Court's application of said doctrine to Petitioner.

Consideration of Question No. 1:

The Special Committee found, in the absence of the transcript of said hearing, that Petitioner was "mentally unable" to practice law based on an alleged finding that Petitioner has a "personality disorder" which rests, in turn, on three subfindings (A-16), which may be fairly summarized as follows:

(a) that, Petitioner "unreasonably imagines that he is the object of unfair persecution" and thereby acts on "imagined wrongs" as if true;

(b) that, Petitioner criticized "persons in responsible positions," (the Dean);

(c) that, Petitioner files law suits; (to that time Petitioner had filed three in 52 years).

The Arizona Supreme Court rejected subfindings (b) and (c) acknowledging that Petitioner has a right to resort to legal process (A-7) and that Petitioner's criticism of public officials is protected speech (A-6,7). Nevertheless, and despite an utter lack of any evidence in the record showing Petitioner to have acted on a single "imagined wrong" as though true, said Court adopted Special Committee's finding that Petitioner is allegedly "mentally unable" to practice law because Petitioner allegedly has a "personality disorder"; or, in effect, said Court approved sub-finding (a).

The Arizona Court cites three specific matters of record to support its decision. Two of these appear in Footnote No. 1 of the Court's opinion (A-6).

Despite the Court's admission that Petitioner had a right to sue the seven anti-semites whose harrassment the Dean called the "most outrageous he had seen in 31 years," the Court labels Petitioner's active opposition to anti-semitism

evidence of "hypersensitivity and aggressiveness" and declares, in effect, that Petitioner was restricted in the face of such outrage to "normal repugnance." Besides being devoid of evidence of action by Petitioner on "imagined wrong," it takes no authority to recognize that the Arizona Supreme Court's standard is unconstitutional, as is denial to practice law based thereon.

Despite the Court's admission that Petitioner had a right to criticise public officials, the Court, finding Petitioner's criticism in a private letter, partly solicited by the President of the University, to its dislike, declares that the speech shows Petitioner's ". . . feelings of persecution as set forth in paragraph (a) of the Committee's Findings . . ." (A-7). As noted above, the harrassment was the most outrageous the Dean had seen in 31 years. Lesser men could certainly be excused if subject to such outrage they had "feelings of persecution;" but more, the Dean admitted that he ignored the harrassment (Exh. 15 to RT, p. 40, lines 5-10) which indifference underlies the criticism of the Dean in said letter.

If the speech in the letter, *supra,* was protected then it must remain so. To said Court, its content may have been caustic, vehement, unpleasantly sharp or even in error, but it must remain protected, *New York Times Company v. Sullivan,* 376 U.S. 254, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964); *Pickering v. Board of Education,* 391 U.S. 563, 88 S. Ct. 1731, 20 L. Ed. 2d 811 (1968); *Baird v. State Bar of Arizona,* 401 U.S. 1, 91 S. Ct. 702 (1971). Certainly nothing in the letter is shown to be "imagined". What is an "imagined wrong" to one man is "error" to another, but "error" or "imagined wrong" the speech must be PROTECTED and one cannot be barred from the practice of law for complaining of the failures of public officialdom.

In truth, as admitted by the Dean, President Schwada received the criticism as well-intended and proper (see excerpt from RT at A-18).

By way of attempted support for its opinion, the Court also recites the allegation imputed to *two* professors that Petitioner threatened one professor and his wife. First, that is an allegation of an actual act not an "imagined" one; hence not supportive of sub-finding (a). Further, the court has not fairly characterized the record. The *two* professors are the ones whose memoranda were surreptitiously solicited. Perusal of Mr. Szekely's memo (Exh. 8 (2B) to RT), reveals that it is devoid of the imputed allegation. Perusal of Mr. Williams' memoranda (Exh. 8 (2A) to RT) shows that he made the allegation but in two variants in a single paragraph, (p. 2, lines 12-16 and lines 26-29 of said Memo). Then, on reading his memo, he gave still a third variant at his deposition (Exh. 1 to RT, p. 23, lines 13-17). No known method is available to demonstrate which of the three variants, if any, is true. Taken as true, the imputed allegation would reflect an indiscretion but not "mental inability" to practice law. Said Memoranda suffer from other serious discrepancies (Memoranda of Points and Authorities, filed by Petitioner, Aug. 22, 1975, pp. 35-40, and further comment in Petitioner's Petition for Rehearing filed September 3, 1976, pp. 17-22).

The Arizona Supreme Court declares that the "personality deficiencies" which it holds permissible to warrant exclusion of Petitioner from the practice of law need not ". . . rise to the level of medically recognized and categorized mental disorders. . . . ," (A-6,7). It is submitted that the Court's standard creates a field day for the amateur psychiatrist and the malevolent. Under the Court's criterion,

any Bar official who dislikes an applicant's (or Bar member's) race, religion, political views, circle of friends, manner of speech or dress need only shout, as was done to Petitioner, *supra*, "personality disorder" (or "irrational"). The Court's standard is an invitation not just to the chilling of Bar applicants' and Bar members' constitutional rights, particularly those of the First Amendment, but to a freezing of them - even when one uses those rights years before one even dreams of pursuing the practice of law.

The Arizona Court summarized the "significant expert testimony" (A-5), exactly opposite to what the record holds. Both the Bar's psychiatrist and Petitioner's agreed that Petitioner was not paranoid, psychotic or neurotic (RT, p. 228, lines 11-15; p. 229, line 25 to p. 230, line 3, p. 267, line 12 to p. 268, line 4). The Bar's psychiatrist refused to label Petitioner a "paranoid personality" and called the term "not useful," (RT, p. 239, line 23 to p. 240, line 6; p. 235, line 24 to p. 236, line 1), based on his long experience with ". . . set up and use [of] diagnostic categories . . .", (RT, p. 231, lines 15-17). Petitioner's psychiatrist testified that Petitioner was not a "paranoid personality" and explained that if one were it had no disablement to pursue a normal life nor require psychiatric treatment, (RT, p. 269, lines 6-10; p. 268, line 10 to p. 269, line 5). Both psychiatrists agreed that Petitioner had no impairment to practice a profession, including law, (RT, p. 237, line 24 to p. 238, line 2, p. 238, lines 7-14 and 19-24; p. 269, lines 11-25; p. 270, lines 17-24). A third psychiatrist examined Petitioner after said hearing and his report was not excluded from the record by the Arizona Court. Said psychiatrist also testified that Petitioner was mentally able to practice law and suffered no mental infirmity (Exh. O to

Memorandum of Points and Authorities filed by Petitioner, August 22, 1975). The Bar psychologist who was subordinate to the Bar psychiatrist testified contrary to stipulation (RT, p. 165, line 7 to p. 165-a, line 9) and reported that he could not give an opinion on Petitioner's mental health, (RT, p. 189, line 18 to p. 190, line 6) but was induced to "change his mind" by untested materials given to him by Bar counsel, (RT, p. 190, lines 7-12) and, in the end, gave a diametrically conflicting reason for said change, (c.f., R.T., p. 165-b, line 26 to p. 166, line 8 with RT, p. 190, lines 13-19). The Court's summary, *supra*, is wholly unwarranted and, the medical evidence is that Petitioner is perfectly normal from a mental health standpoint.

Yet, by the Court's doctrine of personality deficiencies (or disorders), Petitioner, a normal, sane man, who had committed no crime, no moral turpitude, and no greater "offense" than to exercise his First Amendment rights, is excluded from the practice of law. Further, the Court's adoption of the utterly unsupported prognostication by the Special Committee that the alleged "personality disorder" will persist, (A-3,16) bars Petitioner from showing at any future time that the alleged "disorder" has been "cured", or that Petitioner has become "mentally able," *supra*.

From the foregoing, it is evident that the Arizona Supreme Court's Doctrine of Personality Deficiencies (or Disorders) is a vague and ambiguous standard, marked by pronounced overbreath and poses a dangerous chill to Petitioner's First, Fifth and Fourteenth Amendment rights.

Consideration of Question No. 2:

This question has been partially considered above. The Arizona Court's holding that Petitioner's active opposition

to anti-semitism is a mark of "personality disorder" is surprising, and its further restriction of Petitioner and, by implication, Bar applicants and Bar members, to exhibition of no more than "normal repugnance" in the face of a vicious, anti-semitic campaign is astounding.

Rather than curb, disapproval and penalty, approbation would have been more appropriate. The Arizona Supreme Court's standard must be rejected as unconstitutional, *per se*.

Consideration of Question No. 3:

The Minnesota Multi-Profile Index (MMPI) test, (Exh. 10 to RT), contains the following type of questions to which a "true" or "false" response must be given:

"I believe in the second coming of Christ." (Ques. No. 98)

"Christ performed miracles such as changing water into wine." (Ques. No. 483)

"I believe there is a god." (Ques. No. 258)

There are approximately 20 such questions on said examination (RT, p. 187, lines 3-16), skipping more than 30 questions draws suspicion upon the examinee's mental capabilities (RT, p. 186, lines 15-18; p. 186, line 25 to p. 187, line 2).

Petitioner refused to answer the above type of questions (as well as quite a few others lacking specificity, (RT, p. 244, line 12 to p. 245, line 1)). Consequently, objection to inquiry into one's religious views seriously creates unwarranted suspicion of one's mental abilities. Record testimony shows that the MMPI is not necessary to analysis of a person's mental state (RT, p. 274, lines 4-26 and Exh. O to Memorandum of Points and Authorities filed by Petitioner,

Aug. 22, 1975). Therefore, the insistence by the Bar's psychologist upon the use of the MMPI was a constitutionally improper impingement upon Petitioner's First Amendment rights and an improper practice designed to create an illusion that Petitioner had "mental problems" when, in fact, the record evidence, *supra,* demonstrates the contrary.

For the reasons discussed in the preceding, it is respectfully urged that this Court grant the Writ of Certiorari sought hereby.

Respectfully submitted,

By Edward Ronwin

January, 1977.

APPENDIX A

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In Banc

IN THE MATTER OF THE APPLICATION OF EDWARD RONWIN TO BE ADMITTED AS A MEMBER OF THE STATE BAR OF ARIZONA	FILED Jul - 6 1976 Clifford H. Ward Clerk Supreme Court No. SB-52-2

APPLICATION FOR ADMISSION TO STATE BAR OF ARIZONA DENIED; PERMISSION TO TAKE BAR EXAMINATION DENIED

David M. Lurie	Phoenix
	Attorney for Petitioner
Edward Ronwin	Tempe
	In Propria Persona
Donald Daughton	Phoenix
	Attorney for Committee on Examinations and Admissions
Dale Beck Furnish	Tempe
	Attorney for Amici Curiae; Gilbert T. Venable, Stephen E. Lee, John P. Morris, Beatrice Moulton, and Richard C. Dahl.

GORDON, Justice:

The applicant, Edward Ronwin, filed this petition for review after a Special Committee on Examinations and Admissions appointed by this Court refused to recommend him for admission to the State Bar of Arizona on the ground that he "is not mentally able to engage in the active and continuous practice of the law".

Ronwin graduated from the Arizona State University College of Law in January of 1974. He took and failed the bar examination administered the following month. A petition for review of the grading of the examination papers filed with the Committee on Examinations and Admissions was denied. A similar petition subsequently filed in this Court was also denied.

On July 22, 1974, eight days before he was to retake the exam, the Committee on Examinations and Admissions informed Ronwin that he had not qualified for permission to take the test "in that the Committee is unable to make the requisite finding that you are mentally and physically able to engage in [the] active and continuous practice of law." A petition for a Writ of Special Action was filed by the applicant with this Court the next day. We conducted a hearing and declined to take jurisdiction of the matter on July 30th.

On September 24, 1974, an order was entered by this Court appointing a Special Committee to conduct a formal hearing under Rule 28(c) XII D of the Rules of the Supreme Court for the sole purpose of determining whether Ronwin was mentally able to engage in the active and continuous practice of law. Following substantial discovery the hearing was held on January 6 and 7, 1975. On January 21st the seven member Committee issued the following findings:

"[T]he applicant suffers from an established personality disorder of a character and pattern which will persist in the event the applicant is admitted to the practice of law which

"(a) Causes him to be unreasonably suspicious that bad motives and intentions activate persons with whom he comes into contact and to unreasonably imagine that he is the object of unfair persecution by such persons and to act upon such imagined wrongs as if in fact sustained by known facts;

"(b) Causes him to make irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably should know are without any factual basis or support;

"(c) Causes him to bring and pursue with great persistence groundless claims in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that thereby others will be subjected to needless expense and concerns."

The Committee concluded that "because of this personality disorder applicant would probably be unable to properly represent and serve the interests of his clients * * * [and] will probably * * * bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the Court."

Ronwin filed a Petition for Review of the Committee's findings in this Court on January 28, 1975, placing the case in its present posture. The applicant's subsequent motion seeking an order admitting him to the Bar or, in the alternative, permitting him to take the examination pending a determination of his petition for review was denied.

The practice of law is not a privilege but a right, condi-

tioned solely upon the requirement that a person have the necessary mental, physical and moral qualifications. Application of Klahr, 102 Ariz. 529, 433 P.2d 977 (1967); Application of Burke, 87 Ariz. 336, 351 P.2d 169 (1960). This right "is neither greater nor less than the right to engage in other occupations, businesses or trades, for the right to seek and retain employment is shared by all equally and to be equal must be upon the same conditions." Application of Levine, 97 Ariz. 88, 397 P.2d 205 (1965). In Arizona, as a prerequisite to the admission to practice an applicant has the burden of establishing as required by Rule 28 (c) IV (4) of the Rules of the Supreme Court that he is "mentally * * * able to engage in active and continuous practice of law." See Application of Courtney, 83 Ariz. 231, 319 P.2d 991 (1957). If the Committee believed in this case that there was doubt as to Ronwin's mental qualifications "its plain duty was to refuse to certify his name to this Court for admission, for the ultimate responsibility for the admittance to the practice of law lies in the members of the Court." Application of Levine, supra. See Application of Walker, 112 Ariz. 134, 539 P.2d 891 (1975). The Committee's task is often a difficult one as some of the concepts embodied in the Rules escape definition in the abstract. Because of this a petition for review concerning such a matter "must be judged on its own merits, and an *ad hoc* determination in each instance must be made by the court." Application of Klahr, supra.

After a careful review of the record we have concluded that Ronwin has failed to demonstrate that he is mentally able to engage in the active and continuous practice of law. To survey in this opinion the allegations or criticisms made by various witnesses or the psychiatric and psychological testimony would unnecessary [sic] inject comment on the char-

acter or reputation of persons other than the individual who is the focus of this case and would serve to heighten the extreme emotion with which the applicant and others view several of the incidents which were highlighted at the committee hearings. It would also discourage in the future the sort of candid and personal testimony which many people are naturally reluctant to give but which is necessary in order to make a competent evaluation of an applicant's qualifications.

In summary, there is significant expert testimony in the record to indicate that Ronwin has a "paranoid personality" which is characterized by hypersensitivity, rigidity, unwarranted suspicion, excessive self-importance and a tendency to blame others and ascribe evil motives to them. The ominous ramifications of his personality disorder can be seen in the testimony of two professors which indicates that on different occasions he became enraged during discussions of academic matters and made serious threats of physical violence toward certain individuals and, in two cases, their wives. The record reveals a continuing inability by the applicant to maintain normal interpersonal relationships with sharp conflict rather than cooperation a common result. This situation is particularly aggravated where Ronwin is the subject of criticism or views himself as the victim of an imagined or real injustice. While he may excel in other endeavors, he appears mentally unable to reasonably deal with the type of social interaction involved in dealing with clients, other members of the Bar and the public.

We believe that it is imperative that the term "mentally * * * able to engage in active and continuous practice of law" be construed to exclude persons whose long-standing personality traits indicate an obvious inability to get along with

authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders.

The applicant's "irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions" referred to in ground "(b)" were mainly directed at administration officials at Arizona State University and appear to have resulted from an honest although probably misguided opinion of who was responsible for harrassment he endured while a law student.1/ We must be cautious not to punish an individual for utterances which fall within the protections of the First and Fourteenth Amendments. See Pickering v. Board of Education, 391 U.S. 563, 88 S. Ct. 1731, 20 L.Ed.2d 811 (1968); *New York Times Company v. Sullivan*, 376 U.S. 254, 84 S. Ct. 710, 11 L.Ed.2d 686 (1964); Application of Levine, supra. However, the relationship of these accusations and charges to his feelings of persecution as set forth in paragraph (a) of the Committee's Findings is apparent to anyone who reads the full transcript of the proceedings in this matter.

1/ Graffiti such as "Rabbi Ronwin", "Ronwin is a Jew", "Jewish Dining Room" (on the bathroom stall) and other ethnic slurs were written on walls and notices at the law school. There is no indication in the record whether Ronwin is Jewish. The applicant's hypersensitivity and aggressiveness aggravated the normal repugnance an individual would feel as the brunt of such remarks. In a letter to the President of the University, Ronwin accused the dean of the law school of expressing an "attitude of Malice" toward him as demonstrated by his failure to stop the graffiti and stated "[t]he activities of [the] Dean * * * sum to an astonishing and deliberate nonfeasance and malfeasance and were directly responsible for both my troubles at the school, which continued virtually unabated during my entire association, and for much of my current problems with the Bar." Other critical comments in the letter were directed toward a resident professor, two visiting professors and an acting dean of the law school during one semester that the permanent dean was on a sabatical [sic]. Ronwin accused the acting dean of deliberately soliciting false memoranda containing derogatory comments concerning the applicant and of bringing "the memoranda to the Committee's attention with the object of destroying me or my chances to become a member of the Bar because of the boundless malice with which he operates * * *." In connection with a theft from his locker, the applicant stated the acting dean "used his office to protect a felon and effectively halt a criminal investigation because of that hatred [for me]." Ronwin demanded that both the acting dean and a professor be dismissed from the faculty.

We do not agree with ground "(c)" of the Committee's Findings, that Ronwin has in the past brought "with great persistence groundless claims in court proceedings and otherwise." We hesitate to fault the applicant for resorting to the legal system to express his grievances where, as is this case, there is credible evidence that the actions were brought with a good faith belief in their merit.2/

Having agreed with the Special Committee after our independent analysis of the record that Ronwin is not mentally able under Rule 28 (c) IV of the Rules of the Supreme Court to engage in the active and continuous practice of law, it is ordered that his application to be admitted as a member of the State Bar or, in the alternative, to take the bar examination, is denied.

/s/ Frank X Gordon, Jr.
FRANK X. GORDON, JR.
Justice

2/ At the hearing the applicant defended the filing of two lawsuits. The first was filed in 1969 with the California Fair Employment Practice Commission while the applicant was a lecturer at Fresno State College. Ronwin alleged he was a victim of reverse discrimination in hiring practices at the institution. The matter was eventually terminated when a default judgment was entered against the applicant. The second lawsuit was filed in 1972 against seven fellow students Ronwin felt were responsible for the graffiti and verbal harassment he was receiving at the law school. At the hearing the applicant gave a reason why each defendant was included in the suit.

CONCURRING:

FRED C. STRUCKMEYER, JR.
Vice Chief Justice

JACK D. H. HAYS
Justice

WILLIAM A. HOLOHAN
Justice

HENRY S. STEVENS
Judge, Retired

Note: The Honorable James Duke Cameron, Chief Justice did not participate in the determination of this matter and the Honorable Henry S. Stevens, now a retired Judge of the Court of Appeals, was called to sit in this matter.

APPENDIX B

(Title of Action)
(DATED: October 27, 1976)

The following action was taken by the Supreme Court of the State of Arizona on October 26, 1976 in regard to the above-entitled cause:

"ORDERED: Petition for Oral Argument = DENIED.

FURTHER ORDERED: Request for Temporary Stay of Proceedings = DENIED.

FURTHER ORDERED: Petition for Rehearing = DENIED."

Chief Justice James Duke Cameron did not participate in the determination of this matter.

/s/ Clifford H. Ward
CLIFFORD H. WARD, Clerk

TO: Mr. Edward Ronwin, P. O. Box 2527, Scottsdale, Arizona 85252
Donald Daughton, Esq., Daughton, Feinstein & Wilson, 100 West Washington, Suite 1840, Phoenix, Arizona 85003
State Bar of Arizona, 234 North Central, Suite 858, Phoenix, Arizona 85004

APPENDIX C

Vol. 17A, Ariz. Rev. Stat., Rule 28(c)III.7:

The following papers must accompany every application:

* * *

7. Certificate of a licensed physician that the applicant is mentally and physically able to engage in the active and continuous practice of law.

* * *

Vol. 17A, Ariz. Rev. Stat., Rule 28(c)IV.3:

On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

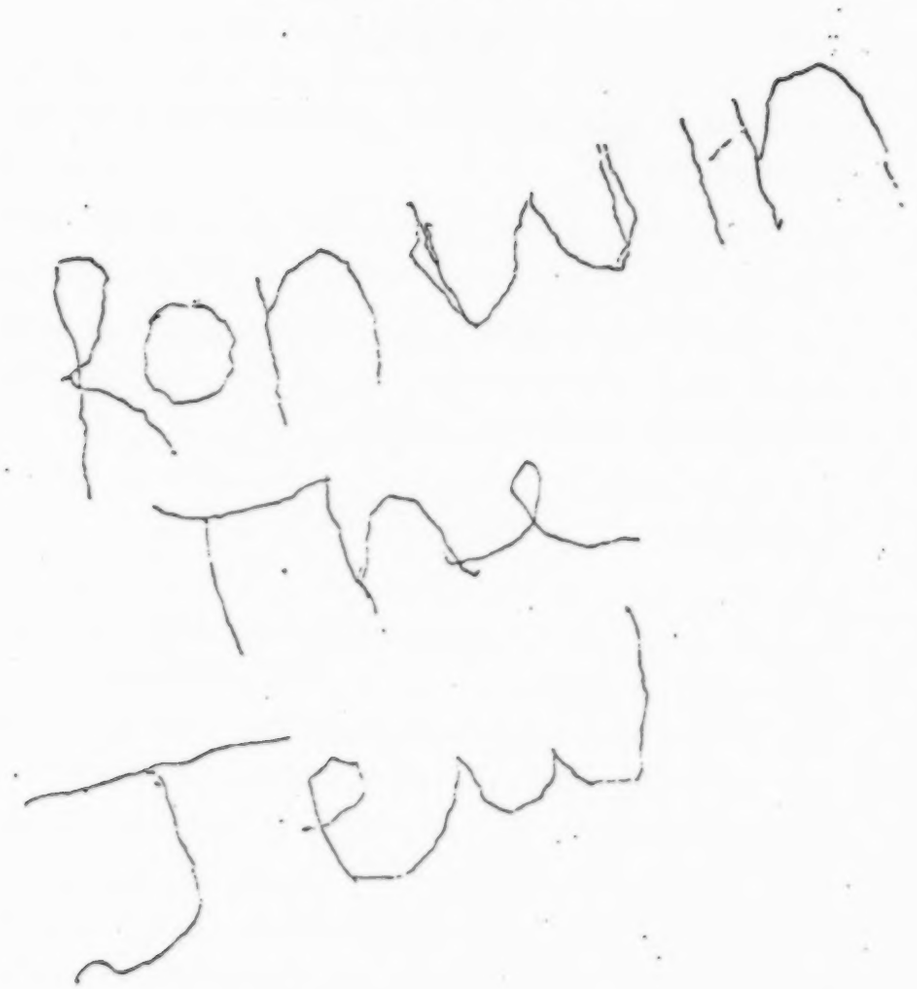
No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:

* * *

3. That he is mentally and physically able to engage in active and continuous practice of law;

* * *

(Exhibit 19-D to RT)



Officer Burgess
7:35 PM
11/15/72

Witness Statement - Miranda
Defendant on front steps - not T.S.

BEST COPY AVAILABLE

(Title of Action) APPENDIX E

AFFIDAVIT

I, DALE B. FURNISH, being first duly sworn upon oath, depose and say:

1. That, I am a Professor on the Faculty of the College of Law of the Arizona State University in Tempe, Arizona.

2. That, I have occupied said position continuously to the present since the commencement of the academic year, 1970-1971, in September, 1970.

3. That, during the academic year, 1972-1973, Dr. Alberto Szekely was a Visiting Professor at said Law College.

4. That, prior to leaving the faculty in May, 1973, Dr. Szekely submitted a Memorandum, dated May 15, 1973, which was placed in a file on Dr. Edward Ronwin, Applicant in the above entitled cause and then a law student in said Law College. Said file was maintained in the office of the Associate Dean, Alan Matheson, at said Law College.

5. That, in the considered judgment of myself, Dr. Szekely, Dean Matheson, and perhaps other members of the faculty and the administration, the Memorandum represented the best way to leave a record of Dr. Szekely's account of the discussions between him and Dr. Ronwin regarding the paper Dr. Ronwin had written for credit in the course taught by Dr. Szekely.

6. As a good friend of Alberto Szekely, I had conversations with him regarding Dr. Ronwin and the incidents described in Dr. Szekely's Memorandum, both before and after the Memorandum was written.

7. I was in accord with the writing and submission of the

Memorandum.

8. I was not present during any of the incidents specifically described in the Memorandum and the Memorandum treats of many other allegations of which I am not personally aware.

9. That all of the foregoing is true of my own personal knowledge.

DATED this 21 day of July, 1976.

/s/ Dale B. Furnish
DALE B. FURNISH

SWORN and SUBSCRIBED before me by DALE B. FURNISH this 21st day of July, 1976.

/s/ Olivia H. Brickett
Notary Public

My Commission expires:
Jan. 24, 1980

Exhibit C to Petitioner's Petition
for Rehearing

AFFIDAVIT
(proposed)

I hereby certify to the following circumstances regarding a memorandum left by Dr. Alberto Szekely describing an incident in his office in the faculty of law and other circumstances involving Edward Ronwin. To the best of my memory, Dr. Szekely, who was a visiting professor in this School of Law in the academic year 1972-73, left the memorandum when he went back to Mexico *because it was the considered judgment of myself, Dr. Szekely, Dean Alan Matheson, and perhaps other members of the faculty and administration that an issue might arise as to the administration's treatment of Edward Ronwin and its handling of complaints and issues be brought to its attention.* As a good friend of Alberto Szekely, I had conversations with him regarding Mr. Ronwin and the incident described in Dr. Szekely's memorandum, both before and after the memorandum was written. The memorandum described many facts of which I am not personally aware.

_____

Dale Beck Furnish

_____

Date

To the left of the space for the name, Mr. Furnish wrote in his own handwriting: "E. Ronwin – How is this?" and signed in Mr. Furnish's initials "DBF"

Note: The handwriting over part of the original has been deliberately deleted.

(Title of Action) APPENDIX F

SPECIAL COMMITTEE FINDINGS

The Special Committee on Examinations and Admissions of the Arizona Supreme Court held a formal hearing on January 6 and 7, 1975, in the meeting room of the State Bar, Security Building, Phoenix, Arizona, pursuant to due Notice to the applicant RONWIN and his attorney, John P. Frank, for the purpose of receiving evidence in the above matter and making a finding as to whether the applicant RONWIN is qualified to be admitted to sit for the bar examination of applicants for admission to practice law in Arizona.

All members of the Committee were present. The applicant, RONWIN, and his counsel, John P. Frank, were present, and the examiner and counsel to the Committee, Donald Daughton, was also present.

Testimony, oral and documentary was received and the Committee adjourned the meeting to consider the evidence and memoranda of law to be submitted by Mr. Frank and Mr. Daughton. A court reporter was present during the entire hearing.

The Committee convened in the hearing room of the State Bar on Tuesday, January 21, 1975 at 1:30 o'clock p.m. All members of the Committee were present and participated in the deliberations of the Committee.

After full and careful review of the evidence, oral and documentary, made available to the Committee and consideration of the memoranda of law and arguments of counsel, the Committee finds as follows:

The applicant RONWIN is not mentally able to engage in the active and continuous practice of the law.

The Committee finds that the applicant suffers from an established personality disorder of a character and pattern which will persist in the event the applicant is admitted to the practice of law which

(a) Causes him to be unreasonably suspicious that bad motives and intentions activate persons with whom he comes into contact and to unreasonably imagine that he is the object of unfair persecution by such persons and to act upon such imagined wrongs as if in fact sustained by known facts;

(b) Causes him to make irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably should know are without any factual basis or support;

(c) Causes him to bring and pursue with great persistance groundless claims in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that thereby others will be subjected to needless expense and concerns;

The Committee finds that because of this personality disorder applicant would probably be unable to properly represent and serve the interests of his clients. The Committee further finds that the personality disorder of applicant will probably cause him, if admitted to the practice of law, to bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the Court.

The Committee concludes that the risk of harm to the public to be anticipated by reason of this unfortunate personality disorder suffered by applicant is so great as to require that the Committee make the findings above stated.

DATED this 21 day of January, 1975 at Phoenix, Arizona.

/s/ Mark Wilmer
/s/ Rowland W. Hill
/s/ Hamilton R. Catlin
/s/ John F. Molloy
/s/ David K. Wolfe
/s/ Robert O. Lesher
/s/ Ivan Robinette

APPENDIX G

From the Dean's Testimony, (Exh. 15 to R.T., p. 73, lines 9-23):

> "Well, my impression from President Schwada's call was that he himself was troubled, that is, *President Schwada was troubled about the experiences to which Dr. Ronwin had been subjected and that he had sympathy for this position. . . So my assessment was that Dr. Ronwin had succeeded in enlisting the sympathy of the president, which to me indicated that he had performed in a very satisfactory professional fashion.*" (Emphasis added.)

Supreme Court, U. S.
FILED
FEB 9 1977
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-953

EDWARD RONWIN,

Petitioner,

vs.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA,

Respondent.

Brief in Opposition to Petition for a Writ of Certiorari to the Supreme Court of Arizona

DAUGHTON FEINSTEIN & WILSON
DONALD DAUGHTON
1840 First National Bank Plaza
100 West Washington Street
Phoenix, Arizona 85003
Attorneys for Respondent

SORG PRINTING COMPANY OF CALIFORNIA, 346 FIRST STREET, SAN FRANCISCO 94105

SUBJECT INDEX

	Page
Opinion Below	1
Jurisdiction	2
Question Presented	2
Statute and Rules Involved	3
Statement of the Case	3
Argument	8
Conclusion	12

TABLE OF AUTHORITIES CITED

Cases	Pages
Application of Courtney, 83 Ariz. 231, 319 P.2d 991 (1957)	2
Application of Levine, 97 Ariz. 88, 397 P.2d 205 (1964)	2
In re Lewkowitz, 70 Ariz. 325, 220 P.2d 229 (1950)	2
In re Sullivan, 64 Ariz. 337, 170 P.2d 614 (1946)	2
Ronwin v. Committee on Examinations and Admissions of the Supreme Court of Arizona, 419 U.S. 967 (1974)	3
Schware v. Board of Bar Examiners, 353 U.S. 232 (1957)	10, 11

Statutes and Rules	
28 U.S.C. Section 1257(3)	2
Rules of the Supreme Court of Arizona:	
Rule 28(a)	2, 3
Rule 28(c)	2, 3, 4

Constitution	
Constitution of the United States, Fourteenth Amendment	3

In the Supreme Court of the United States

October Term, 1976

No. 76-953

Edward Ronwin,

Petitioner,

vs.

The Committee on Examinations and Admissions of the Supreme Court of the State of Arizona,

Respondent.

Brief in Opposition to Petition for a Writ of Certiorari to the Supreme Court of Arizona

OPINION BELOW

The opinion of the Supreme Court of Arizona on the application of Edward Ronwin to be admitted as a member of the State Bar of Arizona appears at .... Ariz. ...., 555 P.2d 315. A copy of that opinion, rendered July 6, 1976, is appended to the petition. A petition for rehearing was filed on behalf of the petitioner on September 3, 1976. On October 26, 1976, the petition for rehearing was denied without opinion.

JURISDICTION

Respondent does not question the jurisdiction of this Court to issue a writ of certiorari to the Supreme Court of Arizona in an appropriate case under Section 1257(3) of Title 28 U.S.C.

Respondent does question the procedural propriety of naming it as the respondent to this petition. The functions of the Committee on Examinations and Admissions of the Supreme Court of Arizona (Committee), as prescribed by Rule 28(c) of the Rules of the Supreme Court of Arizona, are to examine applicants and recommend to the Supreme Court of Arizona for admission to practice those applicants who are considered by the Committee to have the necessary qualifications. In carrying out these responsibilities, the Committee acts as an instrumentality of the Arizona Supreme Court which has reserved to itself full authority and discretion to admit or reject applicants. The Supreme Court of Arizona has often asserted its ultimate responsibility for the admission to the practice of law or the disbarment of a person licensed to practice law. *Application of Levine,* 97 Ariz. 88, 397 P.2d 205 (1964); *Application of Courtney,* 83 Ariz. 231, 319 P.2d 991 (1957); *In re Lewkowitz,* 70 Ariz. 325, 220 P.2d 229 (1950); *In re Sullivan,* 64 Ariz. 337, 170 P.2d 614 (1946); and Rule 28(a), Rules of the Supreme Court of Arizona.

QUESTION PRESENTED

Has the petitioner been accorded due process as guaranteed by the Fourteenth Amendment of the Constitution of the United States in the processing of his application for admission to the practice of law in the State of Arizona?

STATUTE AND RULES INVOLVED

Rule 28(a) and the applicable portion of Rule 28(c) of the Rules of the Supreme Court of Arizona in effect at the time of the proceedings out of which this petition arises are set forth in Appendix A to this brief.[1]

STATEMENT OF THE CASE

Rule 28(c), Rules of the Supreme Court of Arizona, sets fortk in detail all the procedures to be followed and the requirements to be met by applicants to practice law in Arizona. The rule provides that before permission is granted an applicant to take the bar examination it must be established that the applicant is "mentally and physically able to engage in active and continuous practice of law". Rule 28(c) IV 5. Petitioner applied for permission to write the bar examination administered by the Committee in February, 1974. Although the Committee had not yet completed its investigation, petitioner was permitted to take the examination conditionally. Petitioner failed to receive a passing grade on the bar examination, and following the denial of a petition for review by the Arizona Supreme Court, petitioner filed in this Court a petition for a writ of certiorari to the Supreme Court of Arizona in connection with that examination. This Court declined to accept jurisdiction on that petition on October 29, 1974. *Ronwin v. Committee on Examinations and Admissions of the Supreme Court of Arizona,* 419 U.S. 967 (1974).

---

1. Rule 28 of the Rules of the Supreme Court of the State of Arizona was amended November 3, 1975, effective November 8, 1975. The primary change was the creation of two committees i.e., one Committee on Examinations and one Committee on Character and Fitness, whereas prior to the amendment the function of each of the new committees was performed by the Committee on Examinations and Admissions. These amendments in no way change the Rule insofar as it applies to the proceedings involving the petitioner.

On June 1, 1974, petitioner applied for permission to take the July 1974 bar examination. On July 22, 1974, the Committee advised petitioner that it was at that time "unable to make the requisite finding that you are mentally and physically able to engage in active and continuous practice of law" and that he would, therefore, not be permitted to write the July 1974 bar examination. A copy of the July 22, 1974, letter from the Committee to the petitioner is attached to this brief as Appendix B.

On September 6, 1974, John P. Frank, an attorney practicing in Phoenix, Arizona, wrote George Read Carlock, then Chairman of the Committee, to advise that he would be representing petitioner and to request the appointment of a special committee to be appointed by the Chief Justice of the Supreme Court of Arizona. A copy of this letter is appended to this brief as Appendix C. On September 11, 1974, Carlock communicated petitioner's request for the appointment of a special committee to the then Chief Justice of the Supreme Court of Arizona. A copy of this letter is appended to this brief as Appendix D.

On September 24, 1974, the Chief Justice of the Supreme Court of Arizona appointed a special committee to conduct a hearing in the matter of the application of Edward Ronwin to be admitted as a member of the State Bar of Arizona. A copy of this order is appended to this brief as Appendix E.

On October 31, 1974, petitioner and his counsel were each served with a notice of hearing specifying the purpose of the hearing "to receive evidence to enable the special committee to determine whether it can make a finding that you are mentally able to engage in active and continuous practice of law as required by Rule 28(c) IV of the Rules of the Supreme Court of Arizona which finding is a pre-

requisite to granting an applicant permission to take the bar examination in the State of Arizona." A copy of this notice of hearing is appended to this brief as Appendix F.

On November 19, 1974, an order was entered by the Chief Justice of the Supreme Court of Arizona appointing an examiner to "further investigate said matter and to present all available evidence upon the hearing scheduled before the special committee on December 5, 1974." A copy of this order is appended to this brief as Appendix G.

Because of the time required to perform the substantial discovery involved in this case, it was necessary that the formal hearing first scheduled for December 5, 1974, be continued, and on December 10, 1974, an amended notice of formal hearing was served upon petitioner and his counsel. A copy of this amended notice of formal hearing is appended to this brief as Appendix H.

In the course of discovery, counsel for petitioner and the examiner appointed by the Arizona Supreme Court entered into a stipulation whereby petitioner agreed to submit to an examination by a psychologist and a psychiatrist. A copy of this stipulation and the underlying letter referred to in it, are appended to this brief as Appendix I.

The formal hearing was held before the special committee on January 6, and January 7, 1975. The transcript of the testimony presented at that hearing consists of 445 pages. In that formal hearing, the special committee heard the testimony of 17 witnesses including petitioner, and received 20 exhibits in evidence. Included in the exhibits was deposition testimony of four additional witnesses. The witnesses included academic associates, law school teachers, and fellow law school students of petitioner, as well as practicing attorneys for whom petitioner had done legal research, two psychiatrists, and one clinical psychologist.

Each exhibit offered by petitioner was admitted in evidence, and the testimony of each witness presented by petitioner was received by the special committee. At the formal hearing, petitioner was represented by able counsel and was given the opportunity to confront and cross-examine all witnesses. Each member of the special committee was present at all times during the formal hearing.

Following the completion of the formal hearing, the special committee met and considered the evidence presented to it. Upon deliberation, it was the decision of the special committee that it could not affirmatively recommend petitioner's admission to the practice of law in the State of Arizona. The Committee made its findings on January 21, 1975, and they were filed with the Supreme Court of Arizona on January 22, 1975. The findings, which were signed by each of the seven members of the special committee, were as follows:

> "The applicant RONWIN is not mentally able to engage in the active and continuous practice of the law.
>
> "The Committee finds that the applicant suffers from an established personality disorder of a character and pattern which will persist in the event the applicant is admitted to the practice of law which
>
> "(a) Causes him to be unreasonably suspicious that bad motives and intentions activate persons with whom he comes into contact and to unreasonably imagine that he is the object of unfair persecution by such persons and to act upon such imagined wrongs as if in fact sustained by known facts;
>
> "(b) Causes him to make irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably should know are without any factual basis or support;

> "(c) Causes him to bring and pursue with great persistence groundless claims in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that thereby others will be subjected to needless expense and concerns;
>
> "The Committee finds that because of this personality disorder applicant would probably be unable to properly represent and serve the interests of his clients. The Committee further finds that the personality disorder of applicant will probably cause him, if admitted to the practice of law, to bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the Court.
>
> "The Committee concludes that the risk of harm to the public to be anticipated by reason of this unfortunate personality disorder suffered by applicant is so great as to require that the Committee make the findings above stated."

On January 28, 1975, petitioner filed a petition for review with the Supreme Court of Arizona. Oral argument on the petition for review was held before the Supreme Court of Arizona on October 2, 1975. Following this oral argument, the matter was taken under advisement for decision, en banc. On July 6, 1976, the Supreme Court of Arizona rendered an opinion in which it reviewed the evidence, accepted findings (a) and (b) of the Committee, and denied petitioner's applications to practice law in the State of Arizona and to take the written bar examination. A timely motion for rehearing was denied by the Supreme Court of Arizona on October 26, 1976.

ARGUMENT

Petitioner's representation to this Court that the recommendation of the special committee and the decision of the Arizona Supreme Court resulted from anti-Semitic feelings or an effort to thwart his freedom of speech is totally without support in the record. Throughout various stages of these proceedings, petitioner has contended that the inquiry into his mental ability has been a smoke-screen and that he has been a victim of discrimination in violation of his civil rights. Petitioner claims that his discrimination theory is supported by the fact that two of the persons he accused of harassing him with anti-Semitic slurs were allowed to take the February 1974 bar examination, received passing scores, and were admitted to practice, while petitioner was only conditionally allowed to write the examination, on which he failed to receive a passing score. Petitioner further asserts that, had he not stood up for his rights in the expression of repugnance to anti-Semitic slurs, he would now be a member of the State Bar of Arizona. There is no factual basis for either of these contentions. The two fellow students whom petitioner accused of defaming him by anti-Semitic statements and signs testified at the formal hearing and denied vehemently that they were guilty of any of the things of which petitioner accused them. There has been no evidence whatever that these persons committed the acts alleged.

Although there were witnesses at the formal hearing who testified that in their opinion petitioner is mentally able to engage in active and continuous practice of law, there were also witnesses who testified exactly to the contrary. The latter included persons who had been in law school with petitioner, persons who had been former academic associates with him during certain portions of the preceding

ten years, and a practicing clinical psychologist with a Ph.D. degree and more than 20 years of professional experience. The essence of their testimony can best be summarized by quoting from the opinion of the Supreme Court of Arizona in this case:

> "In summary, there is significant expert testimony in the record to indicate that Ronwin has a 'paranoid personality' which is characterized by hypersensitivity, rigidity, unwarranted suspicions, excessive self-importance and a tendency to blame others and ascribe evil motives to them. The ominous ramifications of his personality disorder can be seen in the testimony of two professors which indicates that on different occasions he became enraged during discussions of academic matters and made serious threats of physical violence toward certain individuals and, in two cases, their wives. The record reveals a continuing inability by the applicant to maintain normal interpersonal relationships with sharp conflict rather than cooperation a common result. This situation is particularly aggravated where Ronwin is the subject of criticism or views himself as the victim of an imagined or real injustice. While he may excel in other endeavors, he appears mentally unable to reasonably deal with the type of social interaction involved in dealing with clients, other members of the Bar and the public.
>
> "We believe that it is imperative that the term 'mentally * * * able to engage in active and continuous practice of law' be construed to exclude persons whose long-standing personality traits indicate an obvious inability to get along with authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders." 555 P.2d at 317.

As with any proceeding involving factual disputes, the Committee and, independently, the Supreme Court of Ari-

zona were required to make difficult decisions. The primary responsibility of the Supreme Court of Arizona in a situation such as this is the protection of the public, and given the substantial evidence supporting its decision, it is respectfully submitted that this determination should be left to the Supreme Court of Arizona.

The record clearly shows that petitioner has been afforded due process at every stage of the proceeding. The Arizona Supreme Court had before it, while considering petitioner's petition for review, a complete transcript of the testimony heard by its Committee and all of the documentary evidence offered in the hearings before the Committee, as well as the entire Committee file.

Petitioner's true complaint is that the Supreme Court of Arizona resolved the question of whether he is "mentally able to engage in active and continuous practice of law" against him. The record before this Court clearly establishes that there was ample evidence for such a decision by the Supreme Court of Arizona.

As Mr. Justice Frankfurter eloquently articulated in his concurring opinion in *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957):

> ". . . Admission to practice in a State and before its courts necessarily belongs to that State . . .
>
> • • •
>
> ". . . Especially in this realm it is not our business to substitute our judgment for the State's judgment—for it is the State in all the panoply of its powers that is under review when the action of its Supreme Court is under review.
>
> "Nor is the division of power between this Court and that of the States in such matters altered by the fact that the judgment here challenged involves the application of a conception like that of 'moral character,'

> which has shadowy rather than precise bounds. It cannot be that that conception—moral character—has now been found to be so indefinite, because necessarily implicating what are called subjective factors, that the States may no longer exact it from those who are to carry on 'the public profession of the law.' (See Elihu Root, in 2 A.B.A.J. 736.) To a wide and deep extent, the law depends upon the disciplined standards of the profession and belief in the integrity of the courts. We cannot fail to accord such confidence to the state process, and we must attribute to its courts the exercise of a fair and not a biased judgment in passing upon the applications of those seeking entry into the profession." 353 U.S. 248, 249.

It is respectfully submitted that the question of whether a person is "mentally able to engage in active and continuous practice of law" is no more subjective than a question of "good moral character." The rule articulated by Mr. Justice Frankfurter is equally applicable to this case.

On all of the evidence, and in the proper exercise of its responsibility, the Supreme Court of Arizona has concluded that petitioner is not now "mentally able to engage in active and continuous practice of law," which prerequisite can properly be demanded of a person who seeks to practice law. At all stages in the proceeding on his application, petitioner was afforded due process. It is respectfully submitted that the judgment of the Supreme Court should not be overturned.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

DAUGHTON FEINSTEIN & WILSON
DONALD DAUGHTON

1840 First National Bank Plaza
100 West Washington Street
Phoenix, Arizona 85003

Attorneys for Respondent

(Appendices follow)

Appendix A

Rules 28(a), 28(c) IV, and the Applicable Portions of 28(c) XII of the Rules of the Supreme Court of Arizona

28(a) Committee on examinations and admissions; powers and duties. The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this Rule. For such purpose, a committee on examinations and admissions consisting of seven active members of the state bar shall be appointed by this court upon the recommendation of the board of governors of the state bar which shall recommend at least three members of the state bar for each appointment to be made. Upon the effective date of the amendment of this rule, the court shall make appointments to the committee on examinations and admissions as follows: That person most recently appointed to the committee shall be reappointed for a term of four years and in order of inverse seniority on the committee, the next three existing members shall be reappointed for terms of three years, two years and one year, respectively, and three new members shall be appointed, one for a term of seven years, one for a term of six years and one for a term of five years. Thereafter, upon the expiration of a member's term, the court shall appoint a new member to serve for a term of seven years. In the event of a resignation or inability of a committee member to serve, the court shall appoint another person to serve the unexpired term. The committee shall examine applicants and recommend to this court for admission to practice applicants who are found by the committee to have the necessary qualifications and to fulfill the requirements prescribed by the rules of the board of governors as approved by this court respecting examinations and admissions heretofore adopted and made effective May 25,

1948, and as amended effective February 1, 1954, and such other rules as hereafter may be adopted. The court will then consider the recommendations and either grant or deny admission.

Amended, effective Sept. 15, 1970.

28(c) Rules governing admission of applicants to the state bar of Arizona, as amended.

IV

The committee shall consider and act upon the application within six months after it is filed, unless the time therefor is extended by an order of the Supreme Court. The mere filing of an application does not entitle the applicant to be examined by the Committee. No applicant will be examined until his application has been considered and acted upon and permission granted by the Committee to take such examination. No such permission will be granted until it is established to the satisfaction of the Committee:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years;

2. (a) That he is and will have been continuously an actual and bona fide resident of the State of Arizona for three months immediately prior to the first day of the month of the examination applied for and shall have been physically present within the state of Arizona for at least 75% of the said three month period; or

(b) That he is a graduate of the College of Law of the University of Arizona or of the College of Law of Arizona State University and has been in residence attendance at such College of Law for two (2) semesters immediately preceding the examination applied for; provided, however, that an applicant for re-examination who qualified originally to take the examination pursuant to the above provisions of Rule IV 2(b) and who has failed such examination, has withdrawn his application or failed to complete such examination, shall be entitled to such exemption from the residence requirements of these rules by reason of attendance at and graduation from the College of Law of either the University of Arizona or Arizona State University only with respect to the next ensuing examination and not thereafter; or

(c) That he is a graduate of the College of Law of the University of Arizona or of the College of Law of Arizona State University who entered military or naval service within one year after graduation and who has applied for and will take the examination within one year after discharge from such military or naval service; or

(d) That he is and will have been continuously an actual and bona fide resident of Arizona for a period of more than one year immediately prior to the first day of the month of the examination applied for, but has or will have been physically absent from the state of Arizona for more than 25% of the last three months of such period because of attending school in another state, or because of military or naval service, or because of other reasons deemed substantial by the Committee;

3. That he is a citizen of the United States;

4. That he is of good moral character;

5. That he is mentally and physically able to engage in active and continuous practice of law;

6. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states

for at least five years of the last seven years prior to his application for admission to practice in Arizona;

7. That, if admitted to practice in any other state or states, he is in good standing in every such state.

XII

RULES GOVERNING PROCEDURE BEFORE THE COMMITTEE

A. Informal hearings and determinations.

In the event additional information is required by the Committee with respect to any applicant to enable the Committee, in its opinion, to complete the findings required before it grants or denies an applicant permission to take an examination, it may hold an informal inquiry upon oral or written notice to such applicant, which notice shall advise the applicant generally of the subject of the inquiry and the time and place thereof. Such informal hearing may be conducted by any member of the Committee as designated by its chairman. Upon request of the applicant or by direction of the Committee such hearing shall be stenographically reported and if the information received upon such inquiry has or is expected to have a material bearing upon any decision of the Committee it shall be so reported and a transcript thereof made a part of the applicant's file.

B. Procedure prior to denial by the committee of permission to write examination. Rejection of application based upon record.

If the Committee finds that an applicant is not qualified for permission to take an examination if such finding is based upon information furnished by applicant or failure of the applicant to furnish information required by the Committee, the Committee shall advise such applicant in writing of the discrepancy in the application and shall

allow a reasonable time to the applicant to either supply additional information or to correct, explain or otherwise remedy the defects in such applicant's application and supporting papers and documents as the case may be. Thereafter, if such discrepancies have not been cured and if the reasons for the refusal of the Committee to grant permission to such applicant to take an examination are of record as a part of such applicant's file, the Committee may thereupon deny such permission, stating in writing in the applicant's file its reasons for denying permission to such applicant to take the examination, and shall promptly advise applicant of such denial and the reasons therefor.

C. Inquiry by committee in relation to matters not of record.

If the Committee is unable to make the findings required to grant an applicant permission to take an examination upon the record as made by the applicant or because of information which it has obtained which has not been supplied by applicant or if the Committee for any reason is of the opinion that a formal hearing should be held to complete its investigation of any applicant's qualifications to be admitted to write an examination it may hold such hearing or hearings as may be reasonably required to enable the Committee to pass upon the qualifications of such applicant.

In the event the Committee determines such hearing should be held it shall notify the applicant in writing of such determination and of the time and place such hearing will begin. The notice shall specify with particularity sufficient to advise the applicant generally as to the subject and purpose of the hearing.

D. Formal hearings, subpoena and depositions.

Upon the issuance of the Notice of Hearing hereinbefore provided for, the proceeding thenceforth shall be and be considered a civil matter pending before this Court referred to the Committee on Examinations and Admissions for hearings, findings and decision as to the right of such applicant to be admitted to the bar examination applied for. Proceedings thereafter shall be styled as follows:

BEFORE THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of the Application of ..... To Be Admitted as a Member of the State Bar of the State of Arizona	No. .....

thereafter all of the Rules of Civil Procedure authorizing, relating to and governing depositions in civil proceedings within and outside the state shall become applicable and shall authorize and govern depositions desired either by applicant or by the Committee in connection with said hearing.

Either the Committee or the applicant shall be entitled to have subpoenas (including duces tecum) issued by the Clerk of this Court to require the attendance of witnesses at said hearing and any continuance thereof. The party desiring issuance of such subpoena shall file an application therefor with any Justice of this Court with a brief statement of the reasons for requiring such subpoena accompanied by a form of order authorizing the Clerk of this Court to issue such subpoena and the form thereof for issuance by Clerk.

In the event the Committee by vote of a majority of its members finds that the proposed hearing will be complex, or for other reasons deemed sufficient, the Committee may

certify to this court that in its opinion an examiner should be appointed from State Bar members to further investigate and present the evidence bearing upon the issue of the applicant's qualifications to be admitted to the examination applied for, and upon receipt thereof the Chief Justice of this Court, provided he approves the need thereof, shall appoint such an examiner to further investigate said matter and to present all available evidence upon the hearing aforesaid; provided, however, that the foregoing provision shall not be deemed or construed as denying to the applicant the right to be represented by counsel of the applicant's choosing who may represent applicant fully and independently of the duties and responsibilities of such examiner.

E. Conduct of hearings.

One or more members of the Committee shall conduct the hearing, one of whom shall be designated by the chairman as the presiding member, who shall announce all rulings of the Committee which shall be made without a vote of the members unless the applicant shall request a ruling upon any matter by a majority of the members in attendance at the hearing. In the event the entire membership of the Committee shall not be present and participate in all hearings no final decision shall be deliberated or reached by the Committee until a transcript of all hearings shall be available to all members for review of the testimony and evidence received when any member was absent.

After the hearing and any continuance thereof are concluded, the Committee shall promptly convene, as soon as the transcript thereof is available, and reach and announce their findings and decision as to the right of such applicant to be admitted to the examination applied for. The Committee shall find the facts separately from its decision.

REVIEW BY THE SUPREME COURT

An applicant aggrieved by any decision of the Committee

(A) Refusing permission to take an examination upon the record;

(B) Refusing permission to take an examination after hearing;

(C) For any substantial cause other than with respect to a claimed failure to award a satisfactory grade upon an examination;

may within 20 days after such occurrence file a verified petition with this Court for a review. The petition shall succinctly and briefly state the facts which form the basis for the complaint and applicant's reasons for believing this Court should review the decision of the Committee.

A copy of said petition shall be promptly served upon the chairman or some member of the Committee and the Committee shall within 15 days of such service transmit said applicant's file and a response to the petition fully advising this Court as to the Committee's reasons for its decision and admitting or contesting any assertions made by applicant in said petition. Thereupon this Court shall consider the papers so filed together with the petition and response and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and obligations of applicant judged in the light of the Committee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

Appendix B

COMMITTEE ON EXAMINATIONS
AND ADMISSIONS
SUPREME COURT, STATE OF ARIZONA

[Letterhead]

July 22, 1974

Dr. Edward Ronwin
Box 27801
Tempe, Arizona 85282

Dear Dr. Ronwin:

This Committee has found that you are not qualified for permission to take the July, 1974, bar examination, in that the Committee is unable to make the requisite finding that you are mentally and physically able to engage in active and continuous practice of law.

Accordingly, you will not be permitted to take the examination.

Yours very truly,

/s/ G. R. Carlock
G. R. Carlock
Chairman

GRC:ryt

cc: Members of the Committee
Mrs. Doris Odom

Appendix C

LEWIS AND ROCA
Lawyers

[Letterhead]

September 6, 1974

Mr. George Read Carlock
Chairman
State Board of Bar Examiners
114 West Adams, Suite 500
Phoenix, Arizona 85003

Dear Mr. Carlock:

May I identify myself as representing Mr. Edward Ronwin for the purpose of having a hearing on the matter of his mental competence and capacity to practice law, a question which has been raised by you. As I understand it, you have proposed a hearing and Mr. Ronwin is, within the limitations of this letter, prepared to go forward with it.

He requests that this hearing be conducted by a special committee to be appointed by the Chief Justice and that he be given some reasonable notice of what the scope of the hearing is to be. He asks that the matter be disposed of quickly so that he can return to the business of being fully prepared for the examination.

Yours very truly,

/s/ JOHN P. FRANK
John P. Frank

JPF:srs

Appendix D

COMMITTEE ON EXAMINATIONS
AND ADMISSIONS
SUPREME COURT, STATE OF ARIZONA

[Letterhead]

September 11, 1974

The Honorable Jack D. H. Hays
Chief Justice
Supreme Court of Arizona
1700 West Washington Street
Phoenix, Arizona 85007

Dr. Edward Ronwin

Dear Chief Justice Hays:

Dr. Edward Ronwin is an applicant for admission to practice law in Arizona.

He took the February, 1974, examination but was not given a passing grade, and was therefore not recommended for admission by this Committee. He thereafter filed with this Committee a petition for review of the grading of his examination papers, which was denied; and filed in the Supreme Court of Arizona a petition for review, which was also denied. He has now filed in the Supreme Court of the United States a petition for a writ of certiorari by which he seeks review of the actions of the Supreme Court of Arizona in this regard.

This Committee did not permit him to take the July, 1974, bar examination because it was then unable to make the requisite finding that he was mentally and physically able to engage in the active and continuous practice of law.

Dr. Ronwin then filed in the Supreme Court of Arizona a Petition For Writ Of Special Action by which he sought permission to take the examination, and this petition was denied.

This Committee has advised Dr. Ronwin that he is entitled to a hearing with respect to this Committee's determination as to his qualifications to be permitted to write an examination. Mr. John P. Frank has advised this Committee that he will represent Dr. Ronwin at this hearing; has asked that it be conducted by a special committee to be appointed by the Chief Justice; and has asked that he be given "some reasonable notice of what the scope of the hearing is to be." A copy of Mr. Frank's letter to this Committee, dated September 6, 1974, is attached hereto.

This Committee recommends that the Supreme Court grant Dr. Ronwin's request that the hearing be conducted by a special committee. In other cases in which this Committee has held formal hearings, it has retained counsel to present the matter in order to insure that an adequate and proper record was made; and it recommends that this be done for this hearing. Mr. Donald Daughton is thoroughly familiar with the rules applicable to these proceedings, and this Committee recommends that the special committee be authorized to retain him.

As to the scope of the hearing: This Committee's refusal of permission for Dr. Ronwin to take the July, 1974, bar examination was based solely on the Committee's determination that, on the information it then had, the Committee could not make the requisite finding that Dr. Ronwin was mentally and physically able to engage in active and continuous practice of law; it therefore appears that the only question as to which evidence would be relevant is that question.

Yours very truly,

/s/ G. R. Carlock
G. R. Carlock
Chairman

GRC:ryt
encl.

cc: Members of the Committee
Mrs. Doris Odom
Mr. John P. Frank
Mr. Donald Daughton

Appendix E

Filed Sep 24 1974

In the Supreme Court of the State of Arizona

No. SB 52-2

In the Matter of the Application
of Dr. Edward Ronwin to Be
Admitted as a Member of the
State Bar of Arizona

ORDER

Pursuant to Rule 28(a), Rules of the Supreme Court,
IT IS ORDERED that a special committee, consisting of the persons hereinbelow named, be and it is hereby appointed to conduct a hearing in the above-referenced matter.

Mark Wilmer, Chairman
Hamilton R. Catlin
John F. Molloy
Francis J. Ryley
Ivan Robinette
Robert O. Lesher
David K. Wolfe

DATED this 24th day of September, 1974.

/s/ JACK D. H. HAYS
Jack D. H. Hays, *Chief Justice*

Appendix F

Daughton Feinstein & Wilson
Lawyers
1840 First National Bank Plaza
100 West Washington Street
Phoenix, Arizona 85003
Telephone (602) 254-5071

Attorneys for Committee on Examinations and Admissions

Before the Committee
on Examinations and Admissions of the Supreme Court
of the State of Arizona

No. SB 52-2

In the Matter of the Application of EDWARD RONWIN
to be admitted as a member of the
State Bar of the State of Arizona

NOTICE OF HEARING

TO: EDWARD RONWIN, applicant, and John P. Frank, his attorney.

Notice is hereby given, pursuant to Rule 28(c) XII C of the rules of the Supreme Court of Arizona, that a formal hearing will be conducted before the Special Committee on Examinations and Admissions appointed by the Supreme Court of Arizona on September 24, 1974, and that said hearing will commence at 9:30 a.m. on Thursday, December 5, 1974 at the offices of the State Bar of Arizona, 858 Security Building, Phoenix, Arizona 85004. The subject to be considered is whether you are mentally able to engage in active and continuous practice of law.

The purpose of the hearing is to receive evidence to enable the Special Committee to determine whether it can make a finding that you are mentally able to engage in active and continuous practice of law as required by Rule 28(c) IV of the Rules of the Supreme Court of Arizona which finding is a prerequisite to granting an applicant permission to take the bar examination in the State of Arizona.

/s/ MARK WILMER
Mark Wilmer
Chairman, Special Committee on Examinations and Admissions

Copy of the foregoing mailed
this 31st day of October, 1974
to:

Edward Ronwin
Box 27801
Tempe, Arizona 85282

Copy of the foregoing delivered
this 31st day of October, 1974
to:

John P. Frank, Esq.
Lewis and Roca
100 West Washington Street
Phoenix, Arizona 85003

/s/ DONALD DAUGHTON
Donald Daughton

Appendix G

Filed Nov 19 1974

Daughton Feinstein & Wilson
Lawyers
1840 First National Bank Plaza
100 West Washington Street
Phoenix, Arizona 85003
Telephone (602) 254-5071

Attorneys for Committee on Examinations and Admissions

Before the Committee
on Examinations and Admissions of the Supreme Court
of the State of Arizona

NO. SB 52-2

In the Matter of the Application of EDWARD RONWIN
to be admitted as a member of the
State Bar of the State of Arizona

CERTIFICATION FOR APPOINTMENT OF AN EXAMINER

Mark Wilmer, Chairman of the Special Committee on Examinations and Admissions of the Supreme Court of the State of Arizona, hereby certifies that the Committee, by a vote of a majority of its members, believes that the proposed hearing on the application of Edward Ronwin will be complex and in the opinion of the Committee an examiner should be appointed from State Bar members to further investigate and present the evidence bearing upon the issue of applicant's qualifications to be admitted to the examination applied for.

It is further respectfully requested that Donald Daughton be named as examiner for the Committee.

/s/ MARK WILMER
Mark Wilmer
Chairman, Special Committee on Examinations and Admissions

ORDER

Pursuant to the foregoing certification by Mark Wilmer, Chairman of the Special Committee on Examinations and Admissions, in accordance with Rule 28 C XII D, it is

Ordered appointing Donald Daughton as examiner to further investigate said matter and to present all available evidence upon the hearing scheduled before the Special Committee on December 5, 1974.

/s/ JACK D. H. HAYS
Jack D. H. Hays
Chief Justice

COPY of the foregoing
application for issuance
of subpoenaes delivered
to:

John P. Frank, Esq.
Attorney for Edward Ronwin
this 8th day of November, 1974

/s/ DONALD DAUGHTON
Donald Daughton

Appendix H

Daughton Feinstein & Wilson
Lawyers
1840 First National Bank Plaza
100 West Washington Street
Phoenix, Arizona 85003
Telephone (602) 254-5071

Attorneys for Committee on Examinations and Admissions

Before the Committee
on Examinations and Admissions of the Supreme Court
of the State of Arizona

NO. SB 52-2

In the Matter of the Application of EDWARD RONWIN
to be admitted as a member of the
State Bar of the State of Arizona

AMENDED NOTICE OF FORMAL HEARING

TO: Edward Ronwin, applicant, and John P. Frank, his attorney

Notice is hereby given, pursuant to Rule 28 (c) XII C of the Rules of the Supreme Court of Arizona, that a formal hearing will be conducted before the Special Committee on Examinations and Admissions appointed by the Supreme Court of Arizona on September 24, 1974, and that said hearing will commence at 9:30 a.m. on Monday, January 6, 1975 at the offices of the State Bar of Arizona, 858 Security Building, Phoenix, Arizona, 85004. The subject to be considered is whether you are mentally able to engage in active and continuous practice of law.

The purpose of the hearing is to receive evidence to enable the Special Committee to determine whether it can make a finding that you are mentally able to engage in active and continuous practice of law as required by Rule 28 (c) IV of the Rules of the Supreme Court of Arizona which finding is a prerequisite to granting an applicant permission to take the bar examination in the State of Arizona.

/s/ Mark Wilmer
Mark Wilmer, Chairman
Special Committee on Examinations and Admissions

Copy of the foregoing mailed
this 10th day of December, 1974
to:

Edward Ronwin
Box 27801
Tempe, Arizona 85282

Copy of the foregoing delivered
this 10th day of December, 1974
to:

John P. Frank, Esq.
Lewis and Roca
100 West Washington Street
Phoenix, Arizona 85003
Attorneys for Edward Ronwin

/s/ Donald Daughton
Donald Daughton

Appendix I

Before the Committee on Examinations and Admissions
State Bar of Arizona

In the Matter of
Edward Ronwin

STIPULATION

It is stipulated between Mr. Donald Daughton, counsel for the Committee on Examinations and Admissions, and Mr. John P. Frank, counsel for Mr. Ronwin, that Mr. Ronwin will be examined by a psychologist and a psychiatrist designated by Mr. Daughton as proposed in a letter by him dated November 4, 1974 at a mutually convenient time. It is understood that this examination will be extensive. Mr. Ronwin reserves the right to offer a further examination by a psychiatrist of his own choosing, and for this purpose his own psychiatrist may if he wishes examine the psychologist's report of Mr. Daughton. No agreement of the parties makes a report of one doctor weightier than that of another; this will be a matter for the Committee to consider.

Mr. Ronwin notes that he accepts this examination because there is no other way to meet the requirement im-

posed than to take the examination, but without acknowledging thereby that this is a proper or warranted procedure.

Respectfully submitted,

/s/ DONALD DAUGHTON
Donald Daughton
For the Committee on
Examinations and Admissions

LEWIS AND ROCA

/s/ JOHN P. FRANK
John P. Frank
For Edward Ronwin

DAUGHTON FEINSTEIN & WILSON
Lawyers

[Letterhead]

November 4, 1974

John P. Frank, Esq.
Lewis and Roca
100 West Washington Street
Phoenix, Arizona 85003

Dear John:

Re: Committee on Examinations and
Admissions—Edward Ronwin, adv.

As you know, a formal hearing has been scheduled for December 5, 1974 on Edward Ronwin's application to be admitted as a member of the State Bar of Arizona. In order to properly prepare for said hearing, I need the following:

1. An examination of Dr. Ronwin by Dr. Francis Enos, Psychologist and Dr. Robert H. Barnes, Psychiatrist. Both are associated with the Institute for Human Services and would work in combination in performing a psychological evaluation of Edward Ronwin.
2. Depositions of the following persons who have been previously associated with Dr. Ronwin: Dr. Stephen A. Rodemeyer, Fresno State College, Fresno, California; Dr. Charles Meister and Dr. Warren Neill, of Eastern New Mexico University, Portales, New Mexico; Dr. Rufus Lumry, University of Minnesota, Minneapolis, Minnesota and Dr. Robert Eric Olson, a practicing physician in Minneapolis, Minnesota.
3. The right to examine Dr. Ronwin's file in the College of Law, Arizona State University. If Dr. Ron-

win does not voluntarily make his file available to the Committee, I intend to apply to the Arizona Supreme Court for a Subpoena Duces Tecum directed to Dean Willard Pedrick, compelling the production of said file.

I would appreciate your discussing these matters with Dr. Ronwin and advising me of his decision as quickly as possible because if he refuses to comply with this demand, I intend to seek appropriate orders from the Arizona Supreme Court.

Dr. Ronwin's petition for a writ of certiorari has been denied by the United States Supreme Court and I am informed by the clerk's office that the original file will be returned to the Arizona Supreme Court prior to the December 5th hearing.

Sincerely,

/s/ DONALD DAUGHTON
Donald Daughton

DD:sp
HAND DELIVERED

Supreme Court, U. S.
FILED
FEB 24 1977
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1976

No. 76-953

EDWARD RONWIN, Petitioner,

v.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA, Respondent.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

EDWARD RONWIN
Box 2527
Scottsdale, Arizona 85252
(602) 994-5698
Petitioner pro se

IN THE

Supreme Court of the United States

October Term, 1976

No. 76-953

EDWARD RONWIN, Petitioner,

v.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA, Respondent.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

IN THE

Supreme Court of the United States

October Term, 1976

No. 76-953

EDWARD RONWIN, Petitioner,

v.

THE COMMITTEE ON EXAMINATIONS AND ADMISSIONS OF THE SUPREME COURT OF THE STATE OF ARIZONA,
Respondent.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

ARGUMENT

Respondent's Opposition Brief (hereinafter RBO) does not address itself to the three Questions Presented by Petitioner for review herein; rather, it may be taken as aimed at the "Question Reserved" by Petitioner. Nevertheless, a reply is appropriate so that the posture of the adversaries is mirrored in bold relief.

Distilled to its essentials, Respondent's argument is that all process below was "tidy", *ergo*, the decision of the Arizona Supreme Court must be correct. *Prima facie*, the process could have been "tidy"; yet, said decision could still be incorrect as a matter of law or as lacking in support by "clear and convincing" evidence or both. In fact, the process

below was deficient in "tidiness", as the ensuing comment reveals:

Respondent assures this Court that (RBO, p. 11, line 11), "At all stages in the proceeding on his application, petitioner was afforded due process". (See also, RBO, p. 10, line 7). Respondent also notes (RBO, p. 4, first paragraph), that Petitioner was notified by Respondent (notification letter is Appendix B, RBO) that it could not find Petitioner ". . . mentally and physically able to engage in active and continuous practice of law . . . ," and, therefore, denied Petitioner admission to the July, 1974 Bar examination and therewith the opportunity to qualify for said practice. What Respondent did not reveal to this Court is that said denial was made by Respondent *without giving Petitioner either prior notice or an opportunity to be heard*!

When Petitioner brought the matter to the Arizona Supreme Court's attention by way of a Petition for Writ of Special Action, Cause No. 11642 (of which this action is a continuation), said Court having before it (1) an admission by Bar counsel that Petitioner's Bar record had been cleared prior to Respondent's action (Item C.67. Tape of Special Action proceedings, July 30, 1974 of record transmitted to this Court), and (2) the fact of the aforesaid denial of due process, nevertheless, denied the Petition for Writ of Special Action. Further, in response to said Petition for Writ of Special Action, Respondent attached an affidavit to said response by the then chairman which contained the following explanation of Respondent's denial (p. 3, line 29 to p. 4, line 4 of said Affidavit):

> "On or about May 1, 1974, Dr. Ronwin filed in the office of the Clerk of the Superior Court of the State of Arizona a document entitled 'Petition for Review by the Supreme Court' [all in accordance with the rules of said Court] in which he alleged, among other things, that the Committee's action [setting Feb., 1974 Bar examination passing grades *after* the raw scores were determined] constituted a conspiracy in violation of Section 1 of the Sherman Act, and that the Committee 'under the color of statutes of this State and rules of this Court, conducted a discriminatory and vexing "investigation" of Dr. Ronwin'," (bracketted comment added).

In the next paragraph of said Affidavit, the Chairman averred (p. 4, lines 5-11):

> "On the basis . . . [of] the allegations above referred to of his 'Petition for Review by the Supreme Court,' I believed that the Committee could not appropriately find that he was mentally and physically able to engage in the active and continuous practice of law . . ."

Clearly, Petitioner's lawful exercise of his First Amendment right to the displeasure of said Chairman, was the reason that Respondent denied Petitioner the right to take the July, 1974, examination. Moreover, it defies reason to see any connection between an allegation that Respondent's procedure was violating the Sherman Act and the "mental and physical ability" to practice law, particularly in view of the fact that this Court seriously entertained the concept, *Goldberg v. Virginia State Bar*, 421 U.S. 773, 95 S. Ct. 2004, 44 L. Ed. 2d 572 (1975).

The "two fellow students whom petitioner accused of defaming him by anti-semitic statements and signs . . . [and who] . . . denied vehemently that they were guilty . . ," (RBO, p. 8, lines 20-23), could hardly have been expected to do otherwise since that would have cast serious question on their moral caliber and, by the "Doctrine of Personality Disorders" brought into question herein by

Petitioner, on their "mental ability . . . to practice law." Suffice it to say that the Arizona Supreme Court accepted Petitioner's testimony that he had ". . . reason why each defendant [which included the two said students] was included in [Petitioner's] suit . . . ," (footnote no. 2, Decision of July 6, 1976). The Court may note that Dean Pedrick testified that he was ". . . pretty confident that the entire student body knew about [the anti-semitic harrassment]," (Reporter's Transcript, p. 100, lines 14-17, hearing Jan. 6-7, 1975 before Respondent; hereinafter, RT). Mr. Thomas Dugal, an attorney and a fellow student of Petitioner testified that the harrassment was a matter of general awareness among the law students (RT, p. 354, lines 22-25) (see also testimony of Mr. John Todd, RT, p. 328, line 25 to p. 329, line 14 and that of Mr. David Guthrie, RT, p. 297, lines 9-10 and p. 297, lines 20-22); yet, the aforesaid "two fellow students" saw no evil, heard no evil, spoke no evil.

Respondent attempts to portray a situation inferring that the testimony on Petitioner's mental ability was fairly in doubt so that one could opt in either direction (RBO, p. 8, line 26 to p. 9, line 3). That is hardly the case. The "persons who had been in law school with petitioner" (RBO, p. 8, lines 29-31) were the "two fellow students" discussed above. Three students mentioned above had no doubt that Petitioner was mentally able (RT, p. 331, line 20 to p. 332, line 9; p. 355, line 18 to p. 356, line 1; RT, p. 298, lines 11-17). They were joined by Dean Pedrick (RT, p. 127, lines 5-9 and Exh. 15 to RT, p. 64, line 1 to p. 65, line 1); and by Professor Berch (RT, p. 341, lines 8-17).

The list of the ". . . persons who had been former academic associates . . ." (RBO, p. 8, lines 31-32) and who

Respondent hoped would testify in its favor, is given in the paragraph marked "2.", p. 23, Appendix, RBO. Of said list, Dr. Rodemeyer did not testify. Dr. Meister testified that Petitioner ". . . worked effectively . . ." with him (Exh. 4 to RT, p. 6, line 15). Dr. Neil testified that Petitioner ". . . set high standards of professional behavior and ethics . . ." (Exh. 5 to RT, Written Ques. p. 3, line 31). No testimony was given by either Dr. Meister or Dr. Neil that Petitioner was mentally unable. The testimony of Dr. Lumry was withdrawn by Respondent (RT, p. 3-a and p. 182, line 7), because Dr. Lumry had refused to sign his deposition alleging error in his answers given to Bar counsel's question propounded to Dr. Lumry by a notary chosen by Bar counsel.

Dr. Olson had a *three week* contact with Petitioner *in 1958*. At the time, Dr. Olson was a medical student who just finished his first year (Exh. 2 to RT, Interrogs., p. 2, lines 15-20). In said contact, Petitioner was professor and Dr. Olson was the student hoping to acquire some biochemical experimental techniques. Dr. Olson was unable to perform certain chemical tests and, thereby, Petitioner brought the association to a close. Dr. Olson *never* performed a psychiatric examination of Petitioner (Exh. 2 to RT, Interrogs., p. 6, line 25 to p. 7, line 3) and admits that even now, as an M.D., he lacks expertise in psychiatry (Exh. 2 to RT, Interrogs., p. 6, line 2-9); yet, Dr. Olson flipped off the label of "paranoid" on Petitioner which not even the Bar's psychologist would do.

As to the ". . . practicing clinical psychologist with a Ph D degree and more than 20 years of professional experience . . ." (RBO, p. 9, lines 1-3), this Court is referred to the detailed analysis of the testimony of Dr. Encs in Petitioner's Memorandum of Points and Authorities, pp.

23-35, filed August 22, 1975 in the Arizona Supreme Court (Item C.3 of Certified records transmitted to this Court) and to the supporting references therein to RT. As an example from RT, p. 165-b, line 26 to p. 166, line 8:

> "Q. BY MR. DAUGHTON: Did those additional materials have any significance in your opinion so far as your overall evaluation of Edward Ronwin?
>
> A. I seriously consider every bit of information that I am privileged to look at, *but it did.not change my basic opinion and my basic discoveries.* It gave additional material to support my diagnosis. I saw nothing in there that would contraindicate (sic) the diagnosis I have formulated on November 19th." (Emphasis added.)

However, in direct contradiction of the denial, quoted above, that the material provided surreptitiously by Bar counsel had any effect on his change of conclusion from that in his written report (Exh. 9 to RT) that he could not make a statement as a result of his tests on Petitioner's mental ability to testimony at Respondent's hearing implying that Petitioner was "mentally unable", Dr. Enos testified (RT, p. 190, lines 13-19):

> "Q. In short, it is the materials which you were given which carry you over and make it possible for you to form the opinion which you have expressed, is that correct? *Without those materials, you couldn't do it*?
>
> A. *I think that is a fair statement, yes, sir.*" (Emphasis added.)

It is submitted that the above testimony is a clear example of unconvincing evidence by the *only expert* to testify favorably to Respondent's view herein.

In that same Memorandum of August 12, 1975, Petitioner reviewed the testimony on his behalf, too. In addition to the three students, now attorneys, and Dean Pedrick

and Professor Berch noted above, the Bar's M.D. - psychiatrist found Petitioner mentally able. He was joined by two M.D. - psychiatrists paid for by Petitioner. Moreover, four long time Arizona attorneys for whom Petitioner had done legal research testified that Petitioner was mentally able and five other Arizona attorneys, including Professor Dahl of the law school testified by affidavit that Petitioner was very "mentally able" (see pp. 52-64 of said Memorandum and references to RT therein).

Respondent insists that (RBO, p. 8, lines 15-20):

> ". . . Petitioner further asserts that, had he not stood up for his rights in the expression of repugnance to anti-Semitic slurs, he would now be a member of the State Bar of Arizona. There is no factual basis for either of these contentions . . ."

In the Decision of July 6, 1976, footnote no. 1, the Arizona Supreme Court took Petitioner to task for his "hypersensitivity and agressiveness" in attacking the anti-semitism at the law school and restricted such opposition to "normal repugnance". That pronouncement is itself a refutation of Respondent's claim, as is the quotation from the affidavit of Respondent's chairman, *supra.*

The posture of this case on the evidence comes well within this Court's statement in *Schwere v. Board of Bar Exam. of State of N.M.*, 353 U.S. 232, 239, 77 S. Ct. 752, 756 (1957):

> ". . . Even in applying permissible standards, officers of a State cannot exclude an applicant *when there is no basis for their finding that he fails to meet these standards, or when their action is invidiously discriminatory . . .*"

But, whatever other deficiencies are contained in Respondent's Brief, the most glaring is the fact that no effort

was made therein to present "opposition" to the constitutional issues raised in the Petition for Writ of Certiorari. Wherefore, it is respectfully urged that said Petition should be granted.

Respectfully submitted,

By Edward Ronwin
Petitioner pro se

February, 1977.

TABLE OF AUTHORITIES

Cases: *Page*

Goldberg v. Virginia State Bar,
421 U.S. 773, 95 S. Ct. 2004, 44 L. Ed. 2d 572
(1975) 3

Schwere v. Board of Bar Exam. of State of N.M.,
353 U.S. 232, 77 S. Ct. 752 (1957) 7